

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	
	:	Administrative Action
Toni L. Luciano, L.P.N.	:	
License No. 26NP05870300	:	
	:	FINAL ORDER
	:	OF DISCIPLINE
TO PRACTICE NURSING	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Toni L. Luciano, L.P.N. ("Respondent") is a licensed practical nurse in the State of New Jersey and has been a licensee at all relevant times.

2. On or around May 31, 2013, Respondent completed an online biennial license renewal application, which asked "Will you have completed the required continuing education credits by May 31, 2013," referring to the thirty hours of continuing education required during the June 1, 2011 - May 31, 2013

biennial period. Respondent answered "yes" and certified that answer to be true by submitting the online application.

3. On July 30, 2013, the Board received information indicating that Respondent was arrested on July 29, 2013 by the Camden County Police Department and charged with aggravated assault with bodily injury, in violation of N.J.S.A. 2C:12-1B(7).

4. On August 7, 2013, the Board sent Respondent a letter of inquiry via regular and certified mail requesting certain information about the arrest, nursing employment and certificates of completion of all credits earned during the previous three years.

5. The certified mailing was delivered on August 12, 2013.

6. Respondent has failed to respond to the inquiry.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and also subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h).

Pursuant to N.J.A.C. 13:37-5.3(b), a nurse shall complete a

minimum of 30 hours of continuing education per biennial period. Falsification of any information submitted on the renewal application may result in penalties and/or suspension or revocation of license. N.J.A.C. 13:37-5.3(a). Additionally, a registered professional nurse or licensed practical nurse shall maintain continuing education compliance documentation for a period of four years after completion of the hours and shall submit such documentation to the Board upon request. N.J.A.C. 13:37-5.3(f).

Respondent failed to demonstrate, to the satisfaction of the Board, that Respondent completed any continuing education required for the June 1, 2011 - May 31, 2013 biennial renewal period. Respondent's failure to complete 30 hours of continuing education during the June 1, 2011 - May 31, 2013 biennial period constitutes a violation of N.J.A.C. 13:37-5.3, which the Board deems professional misconduct within the intendment of N.J.S.A. 45:1-21(e) and also constitutes a violation or failure to comply with a regulation administered by the Board within in the intendment of N.J.S.A. 45:1-21(h).

Further, the Board finds that Respondent's submission of her 2013 renewal, wherein she answered affirmatively that she had completed, or would complete, the required continuing education,

when she did not complete the required continuing education, constitutes the use or employment of dishonesty, deception, or misrepresentation within the intendment of N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension, reprimand, and seven hundred and fifty dollars (\$750) in civil penalties was entered on July 2, 2014. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent timely responded to the Provisional Order of Discipline by providing a full response to the Board's original letter of inquiry. As for continuing education, Respondent provided documentation of completing:

- a) 49.8 hours within June 1, 2009 - May 31, 2011;
- b) 15 hours within June 1, 2011 - May 31, 2013 (excess

hours carried over from the previous period); and

c) 30 hours within June 1, 2013 - May 31, 2015.

Respondent maintains that she mistakenly believed that thirty hours of continuing education she completed in April 2011 would be applied to the June 1, 2011 - May 31, 2013 period. Respondent maintains that she did not stop to think that she was not taking the courses during the actual biennial license period. After realizing her mistake, Respondent took an additional thirty hours of continuing education in July 2014. She may use fifteen of those hours to cure the deficiency of the June 1, 2011 - May 31, 2013 biennial period and states that she understands that those same hours may not be also used to satisfy the requirements of the June 1, 2013 - May 31, 2015 biennial period.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration, as Respondent did not dispute the findings of fact or conclusions of law. Inasmuch as Respondent provided the information originally requested and cured the deficiency in her continuing education, the Board determined that suspension was no longer

warranted. However, the Board determined that Respondent's failure to respond to the original inquiry, thereby necessitating the filing of the Provisional Order of Discipline, and review of Respondent's subsequent reply months later, warrants imposition of a five hundred dollar (\$500) civil penalty. Additionally, Respondent did not timely complete the required continuing education within the June 1, 2011 - May 31, 2013 biennial period and for that, the Board has determined that a two hundred and fifty dollar (\$250) civil penalty is warranted. Similarly, the Board has determined that the reprimand is warranted for Respondent's false answer on the 2013 biennial renewal application whereby she certified that she had completed the required continuing education when she had not done so.

ACCORDINGLY, IT IS on this 21 day of January, 2015,
ORDERED that:

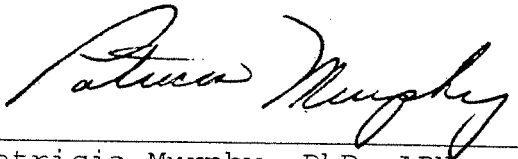
1. Respondent is reprimanded for violating N.J.S.A. 45:1-21(b).

2. A civil penalty in the aggregate amount of seven-hundred and fifty dollars (\$750.00) is hereby imposed upon Respondent for failure to cooperate and for failing to timely complete her continuing education requirements. Payment shall be made by certified check, bank cashier check, or money order

payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than fifteen (15) days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE BOARD OF NURSING

By: _____


Patricia Murphy, PhD, APN
Board President